

IN THE COURT OF APPEALS OF IOWA

No. 6-262 / 06-0334
Filed July 26, 2006

**IN THE INTEREST OF K.A.K. and A.L.K.,
Minor Children,**

C.K., Mother,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Mary L. Timko,
Associate Juvenile Judge.

A mother appeals the juvenile court order finding her children were in
need of assistance. **AFFIRMED.**

Patricia K. Wengert, Des Moines, and C.K., Sioux City, pro se, for
appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, Thomas S. Mullin, County Attorney, and Dewey Sloan, Assistant
County Attorney, for appellee-State.

Marchelle Denker, Juvenile Law Center, Sioux City, guardian ad litem for
minor children.

Considered en banc.

PER CURIAM

I. Background Facts & Proceedings

Christine is the mother of Angel, born in September 2001, and Kylie, born in September 2005. The children were removed from Christine's care shortly after Kylie's birth because Christine was homeless, and had apparently been living a nomadic lifestyle for several years. She had no means of financial support. Christine gave conflicting stories about her circumstances.¹

Angel and Kylie were adjudicated to be children in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(b) (2005) (parent is imminently likely to neglect child), (c)(2) (child is likely to suffer harm due to parent's failure to supervise), and (g) (parent fails to provide adequate food, clothing, or shelter). At the adjudication hearing, in December 2005, Christine stated her brother had established a residence and a job for her in New Mexico, and she planned to move there.

At the dispositional hearing, in January 2006, Christine stated she had changed her mind about going to New Mexico, and was moving to Florida. She testified she was staying with a friend while in Iowa, but would not give the address to the court. The juvenile court found:

Unfortunately, it is difficult to return children to a parent who has no home and who refuses to disclose any information that would be helpful in that reunification effort.

The Court finds that this case continues to be one of deceit. Christine continues to live a chaotic and nomadic lifestyle. She has no plans for her future. Her plans change from day to day and can best be characterized by "fly-by-night."

¹ Christine stated she had six other children, but gave various stories about where they were and what they were doing. She eventually admitted her parental rights to three children had been terminated. The other three lived with their fathers.

The court concluded the children should remain in foster care. Christine has appealed the CINA orders.

II. Standard of Review

Our scope of review in juvenile court proceedings is de novo. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). Although we give weight to the juvenile court's factual findings, we are not bound by them. *Id.* Our primary concern is the best interests of the children. *In re E.H.*, 578 N.W.2d 243, 248 (Iowa 1998).

III. Jurisdiction

Christine raises as an issue "jurisdiction as to residency," and cites 28 U.S.C. section 1738A, the federal Parental Kidnapping Prevention Act (PKPA). The jurisdictional requirements of the PKPA present a question of subject matter jurisdiction. *In re Jorgensen*, 627 N.W.2d 550, 554 (Iowa 2001). The question of subject matter jurisdiction may be raised at any time. *Id.*

We note, however, that the PKPA does not apply to dependency or neglect proceedings, such as CINA cases. See *L.G. v. People*, 890 P.2d 647, 661 (Colo. 1995), cert. denied, 516 U.S. 121, 116 S. Ct. 82, 133 L. Ed. 2d 40; *In re L.W.*, 486 N.W.2d 486, 500 (Neb. 1992); see also *Williams v. Knott*, 690 S.W.2d 605, 609 (Tex. App. 1985) (noting the PKPA does not apply to actions to terminate parental rights). Thus, if Christine is claiming that Iowa does not have jurisdiction under the PKPA, her argument is without merit because the PKPA does not apply to this CINA proceeding. Also, no other state has exercised jurisdiction, and in exercising initial jurisdiction, a state need not comply with the PKPA. *Jorgensen*, 627 N.W.2d at 558.

In discussing the applicability of the Uniform Child Custody Jurisdiction Act in CINA cases, our supreme court found that a juvenile court had jurisdiction even though there was a pending dissolution proceeding regarding the same children in another state. *In re E.A.*, 552 N.W.2d 135, 138 (Iowa 1996). The court stated, “Notwithstanding these factors, we are confident that the Iowa juvenile court did have subject matter jurisdiction for the limited purpose of protecting the children from risks of harm arising during their presence in this state.” *Id.* We conclude the juvenile court had subject matter jurisdiction in this case.

IV. Sufficiency of the Evidence

Christine also claims the State did not present sufficient evidence to show the children were in need of assistance. We find the record shows the children were clearly in need of assistance and were properly placed under juvenile court jurisdiction. When the children were removed Christine was homeless and had no plan for taking care of them. Although Christine now states she has a place to live in Iowa, she would not reveal that address to the court. The children cannot be returned to Christine if the court does not know where they would be living, and the surrounding circumstances.

We affirm the decision of the juvenile court.

AFFIRMED.